

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT

April 26, 2016

MEMORANDUM

SUBJECT: Clarifying Project Period Grant Policy Issuance Applicability to Superfund Technical

Assistance Grants Under 40 CFR Part 35

FROM: Howard F. Corcoran, Director

Office of Grants and Debarment

TO: Barry N. Breen, Principal Deputy Assistant Administrator

Office of Land and Emergency Management

This memorandum clarifies the applicability of the project period limitations in Grants Policy Issuance (GPI) 08-02, "Guidance on Project Period Duration and the Use of New Awards to Fund Additional Work", and GPI 11-01, "Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements," to Technical Assistance Grants (TAG). This memorandum is separate and distinct from the "Class Waiver for Superfund Cooperative Agreement and Interagency Agreement Project Duration" issued by the Office of Grants and Debarment (10/24/2008) and the "Clarifying Class Waiver for Superfund Cooperative Agreement and Interagency Agreement Project Duration" (4/9/2014).

BACKGROUND

GPIs 08-02 and 11-01 limit the project period of most grants to seven years. These policies provide that the total project period of a discretionary assistance agreement, including all amendments, may not exceed seven years absent specific regulatory or statutory authorization for a longer project period and/or a waiver issued by the Office of Grants and Debarment.

The Environmental Protection Agency has specific, discretionary, statutory authority to renew TAG grants for a period longer than seven years. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), codified at 42 USC Chapter 103 Section 9617(e)(2) states:

"Not more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action."

TAG regulations support the statute's intent that the grant be available throughout Superfund site remedial actions by enabling TAG recipients to renew their grant and receive additional funding without competition (40 CFR 35.4065), and by allowing for flexible project periods based on site-specific considerations and community needs (40 CFR 35.4135).

TAGs have statutory authorization for a longer project period. The seven year project period limitation set forth in the Grants Policy Issuances 08-02 and 11-01 therefore does not apply to a TAG for which a stage of remedial action is ongoing.

REQUIREMENTS

Provided that some stage of remedial action is ongoing at the Superfund site, the Agency can exercise discretionary authority to renew a TAG for a project period greater than seven years. At the time a recipient applies to extend the project period by way of a no-cost extension or with the application for supplemental funding, the TAG program will review the request/application to ensure the recipient is in good standing, that site conditions still warrant TAG funding and that the recipient is meeting their milestones and/or targets described in their scope of work or TAG award.

ACTION

In accordance with Section 1 of GPI 08-02 and pursuant to this waiver under section 17.0 of GPI 11-01, Program Offices and Grants Management Offices may extend a TAG grant project period beyond seven years for which a stage of remedial action is ongoing and that meet the requirements above.

cc: Wendel Askew, Office of General Counsel Freya Margand, Office of Superfund Remediation and Technology Innovation Grants Management Offices